EDMUND G. BROWN JR.
Attorney General of the State of California
DAVID S. CHANEY
Chief Assistant Attorney General
ROCHELLE C. EAST
Senior Assistant Attorney General
MICHELLE DES JARDINS
Supervising Deputy Attorney General
SUZANNE ANTLEY, State Bar No. 249289
Deputy Attorney General
110 West A Street, Suite 1100
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-3197
Fax: (619) 645-2581
Email: Suzanne.Antley@doj.ca.gov

Attorneys for Defendants Builteman, Richey, and Scribner

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

VENSON LANE MYERS, Plaintiff, v. **L.E. SCRIBNER, et al.,** Defendants.	08CV0117 W (WMc) **DEFENDANTS' EX PARTE APPLICATION FOR STAY OF DISCOVERY** Judge: Hon. William McCurine, Jr.

Defendants Builteman, Richey, and Scribner (Defendants) respectfully request that the Court stay discovery in these proceedings until after it has ruled on Defendants' motion to dismiss or other responsive pleading.

This request is based on this application, the supporting declaration of Suzanne Antley, and this Court's file.

Plaintiff Venson Lane Myers is an inmate currently incarcerated at Calipatria State Prison in Calipatria, California. In this lawsuit, he alleges that Defendants violated his religious rights under various sources of law. He seeks both damages and injunctive relief.

///

Defendants' responsive pleading is due on August 22, 2008. Defendants anticipate that they will file a Motion to Dismiss Plaintiff's Complaint based on various grounds, including, but not necessarily limited to the following:

1. Plaintiff has failed to exhaust his administrative remedies.

2. Defendants are protected by immunity under the Eleventh Amendment from liability to Plaintiff for damages.

3. Defendant Scribner cannot be held liable under a theory of *respondeat superior.*

4. Plaintiff has failed to state a claim for which relief can be granted under the First Amendment, the RLUIPA, and the Fourteenth Amendment.

5. Defendants are protected by qualified immunity from liability to Plaintiff for damages.

On August 12, 2008, Defendants' counsel received Plaintiff's "Notice of Motion for discovery, Production of documents." Good cause exists to stay this and further discovery. This case could be largely disposed of when the Court rules on Defendants' Motion to Dismiss. Conducting discovery prior to that ruling, therefore, could prove to be unnecessary. Staying discovery until after the Court rules on Defendants' Motion would prevent the parties from making unwarranted expenditures of time and resources. Moreover, Defendants have no reason to believe that Plaintiff will be prejudiced by such an order.

///

///

///

///

///

///

///

///

///

///

///

ACCORDINGLY, Defendants request that the Court grant this Application and stay discovery in this case until after the Court has ruled on Defendants' anticipated Motion to Dismiss.

Dated: August 13, 2008

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of the State of California

DAVID S. CHANEY
Chief Assistant Attorney General

ROCHELLE C. EAST
Senior Assistant Attorney General

MICHELLE DES JARDINS
Supervising Deputy Attorney General

/S/ Suzanne Antley

SUZANNE ANTLEY
Deputy Attorney General
Attorneys for Defendants

70133375.wpd
SD2008700631

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Myers, Venson Lane v. Scribner, et al.**

Case No.: **08CV0117 W (WMc)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 13, 2008, I served the attached **DEFENDANTS' EX PARTE APPLICATION FOR STAY OF DISCOVERY** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Venson Lane Myers
CDC No. C-29600
Calipatria State Prison
P. O. Box 5005
7018 Blair Road
Calipatria, CA 92233-5005
In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 13, 2008, at San Diego, California.

J. Yost — Declarant

J. Yost — Signature

70133475.wpd